

ORDINANCE NO. 492

AN ORDINANCE ADOPTING CHANGES TO SECTION TWO OF THE
CARBON COUNTY DEVELOPMENT CODE

WHEREAS, Carbon County desires, *inter alia*, to amend the composition of the Planning Commission, to disband the Carbon County Board of Adjustment, and to establish an administrative hearing officer as the appeal authority for all land use applications; and

WHEREAS, Carbon County finds that adding alternates to the Planning Commission, and making the County Commission member of the Planning Commission a non-voting liaison member will ensure that the Planning Commission is independent of other bodies and will increase the likelihood of a quorum at its meetings; and

WHEREAS, appointing a hearing officer to hear appeals of denials or approvals of land use applications, as well as requests for variances to the Development Code, will help ensure a more uniform application of the Development Code and will allow Carbon County to utilize a professional land use expert to hear such appeals; and

**NOW THEREFORE, THE CARBON COUNTY BOARD OF COMMISSIONERS
DOES HEREBY RESOLVE AND ORDAIN AS FOLLOWS:**

- A. Section Two of the Carbon County Development Code is hereby amended to read as set forth in **Exhibit "A"** to this agreement.
- B. Effective Date. This ordinance shall become effective February 7, 2018, or as soon thereafter as the Carbon County Clerk has met the publication requirements of U.C.A. §17-53-208(3).

ORDAINED, DECREED, and APPROVED this 6th day of February, 2018.

CARBON COUNTY BOARD OF
COMMISSIONERS

Chairman

Voting:

Commissioner Potter voted ☒ yea ☐ nay

Commissioner Hopes voted ☒ yea ☐ nay

Commissioner Mellor voted ☒ yea ☐ nay

Published in the Sun
Advocate on the 5th day
of June, 2018.

ATTEST:

Carbon County Clerk/Auditor

Deputy County Clerk





SECTION 2
COUNTY PLANNING

2.1 PLANNING COMMISSION

2.1.1 Establishment of Commission – Number of Members – Qualification

There is hereby created a Planning Commission within and for Carbon County, to be known as the Carbon County Planning Commission. Said Commission shall consist of seven voting members, two alternate members, and, at the discretion of the Board of County Commissioners, a non-voting, liaison member from the Board of County Commissioners. The members of the Planning Commission shall be appointed by the Board of the County Commissioners. Each of the seven appointed members and the two alternates shall be a resident of the County and an owner of real property, and at least four of them shall hold no other public office or position. Members shall be selected without respect of political affiliations and shall serve without compensation, except for reasonable expenses. In the event of the absence of any regular members at any meeting, the alternate member(s) shall serve with full rights and authority at said meeting.

2.1.2 Term of Office

Each member of the Planning Commission shall serve for four years. The term of office for the liaison member shall be as determined by the action of the Board of County Commissioners.

2.1.3 Vacancies – Removal from Office

Vacancies of appointed members occurring otherwise than through the expiration of terms shall be filled for the remainder of the unexpired term by appointment of the Chairman of the Board of County Commissioners with the consent of the other members. Members of the Planning Commission may be removed by the County Commission for non-performance of duty or misconduct, after public hearing on the matter, if one is requested. Attending fewer than half of all regularly scheduled meetings of the Planning Commission within a year's time shall be considered non-performance of duty.

2.1.4 Organization – Rules of Procedure

The Planning Commission shall elect from its members a chairperson, whose term shall be for one year. The Commission may create and fill such other offices as it may determine. The Planning Commission shall adopt policies and procedures governing its procedure and shall keep public records of its proceedings.

2.1.5 Duties and Powers

The Board of County Commissioners designates the Planning Commission as the Land Use Authority to hear and act on all land use applications, except as may be otherwise stated in this Development Code. The Planning Commission shall have the power as may be necessary to perform its functions and promote County planning as follows:

- A. To prepare and recommend a master plan and amendments to the master plan to the County legislative body.
- B. To recommend zoning ordinances and maps, and amendments to zoning ordinances and maps to the County legislative body.
- C. To recommend subdivision regulations and amendments to those regulations to the County legislative body.

- D. To act as the land use authority in regard to subdivision and conditional use permit applications, with authority to approve or deny of subdivision and conditional use permit applications.
- E. To determine other land uses not specified in the Development Code. Because not all land uses may be contemplated by this code, any use of land which is not enumerated as a permitted or conditional use in a particular zoning district, and is not contrary to law, may be considered by the Planning Commission to be a permitted non-conditional or conditional use. The Planning Commission shall hear and decide requests from any person or entity adversely affected by an omission of a legal land use in this code. The Planning Commission shall determine whether the use is a permitted or conditional use.

The Planning Commission may not hear or authorize such use unless it meets the minimum requirements needed to promote the public health, safety, morals, convenience, order, prosperity and general welfare of the public.

Upon the Planning Commission making findings of fact, any conditional use shall be approved pursuant to the standards set forth in this Code. Any permitted use shall be referred to the Zoning Administrator and Building Official for application for and issuance of proper permits.

- F. To advise the County legislative body on matters as the County legislative body directs.
- G. To hear or decide any matters that the County legislative body designates.
- H. To exercise any other powers delegated to it by the County legislative body.
- I. To exercise any other powers that are necessary to enable it to perform its functions.

2.2 APPEALS, APPEAL AUTHORITIES, AND REQUESTS FOR VARIANCES

2.2.1 Appeals Considered. All land use decisions made or issued by any Land Use Authority designated herein may be appealed to an Administrative Hearing Officer within 30 days of the issuance of a decision of the Land Use Authority.

2.2.2 Variances. A request for a waiver of or variance to a land use ordinance shall be heard by an Administrative Hearing Officer. Variances and waivers that may be considered include, but are not limited to, the following:

1. Building setbacks from property line
2. Structure height requirements
3. Exploratory or production well locations
4. Parking facilities
5. Landscaping
6. Utility requirements
7. Livestock and animal locations and density

2.2.3 Appointment of Administrative Hearing Officer. The Administrative Hearing Officer shall be appointed by the Board of County Commissioners. The Board of Commissioners may at their discretion appoint more than one Hearing Officer. If more than one Hearing Officer is appointed, the Hearing Officers will alternate hearing cases, and shall substitute for each other when the appointed officer is unavailable. An Administrative Hearing Officer may enlist the assistance of a geologist, structural engineer, or other expert in the geologic sciences in making decisions pertaining to geologic hazards. Any costs associated with technical reports will be at no cost to Carbon County.

2.2.4 Conduct of Appeal Hearings – All hearings before an Administrative Hearing Officer shall be subject to the following rules and guidelines:

- a. Public notice of any appeal hearing shall be given as required for any meeting under the Utah Open and Public Meetings Act. Notice of the appeal hearing shall be given to the parties at issue and to the owner of the underlying property no fewer than 10 days prior to the hearing. Notice shall be deemed effective as of the date notice is mailed. An applicant who fails to appear, or whose agent fails to appear, at a properly noticed meeting may be denied relief on the basis of the applicant's absence at the hearing.
- b. All such hearings shall be recorded and minutes shall be made of said meetings.
- c. The appeal authority shall not be bound to follow rules of evidence.
- d. A written decision shall be issued by the appeal authority after all evidence has been presented. A copy of the decision shall be kept in the records of the Planning Department.
- e. The Administrative Hearing Officer is the final appeal authority for land use decisions and requests for waivers and variances within Carbon County. A decision of an Administrative Hearing Officer may be appealed to the Seventh Judicial District Court of Carbon County within 30 days of the mailing of the written decision of the Administrative Hearing Officer.

2.2.5 Standards on Variances and Waivers

A. A variance or waiver may be granted only if it is reasonably and clearly determined that:

1. Literal enforcement of the requirements and provisions of this title would cause an unreasonable hardship on the owner that is not necessary to carry out the general purpose of this title;

2. Special, unique, or exceptional circumstances or conditions are attached to the land but do not generally apply to other properties in the same zone;

3. Granting the variance is essential to the beneficial enjoyment of a substantial property right possessed by other property owners in the same zone;

4. The variance will not:

a. be contrary to the public interest or welfare;

b. substantially affect the County master plan;

c. substantially injure or restrict the beneficial use and enjoyment of adjacent or nearby property; or

d. permit a use not designated as a permitted or conditional use in the zone in which the land is situated;

5. The requesting person is the owner of the land, authorized agent of the owner, or a holder of a beneficial interest in the land;

6. The spirit and intent of this title are observed and substantial justice is done; and

7. There is no reasonable alternative.

B. The appeal authority may not make a finding that there is an unreasonable hardship unless the alleged hardship:

1. Is located on or closely and reasonably associated with the land for which the variance is sought; and

2. Results from special circumstances which are unique to the land and not from conditions that are general to the neighborhood.

C. The appeal authority may find that special circumstances exist only if the special circumstances:

1. Relate to the alleged hardship; and

2. Deprive the land of privileges granted to other properties in the same zone.

D. The owner shall have the burden of proving that all of the above elements are met.

2.3 ZONING ADMINISTRATION

2.3.1 Creation of Office

There is hereby created the office of Zoning Administrator. Said Administrator is hereby charged with the administration and enforcement of the zoning regulations of the County and other duties as set forth below.

2.3.2 Powers and Duties of the Zoning Administrator

The Zoning Administrator may appoint deputies.

It shall be the duty of the Zoning Administrator or Deputy:

- A. To review all applications for building permits and to approve such permits when all requirements of the zoning regulations have been met.
- B. To respond to requests for information from citizens and officials regarding details of the County's development and zoning requirements.
- C. To enforce the provisions of this Code within the County, to refuse to approve any permit unless the plans of and for the proposed erection, construction, or use fully conform to all zoning regulations in effect within the County, and to enter actions in the courts when necessary.
- D. Upon appeal to the Administrative Hearing Officer on any matters heard and decided by the Land Use Authority designated under this Code, the Zoning Administrator shall forthwith transmit all papers, records, exhibits, and other pertinent data pertaining to the appeal thereto.
- E. To keep the Official Zone Map current, and to issue certificates of zoning compliance when requested.
- F. To act as staff to the Planning Commission and to coordinate its activities with those of the Administrative Hearing Officer and County Commission.
- G. To provide technical assistance to the Administrative Hearing Officer and to coordinate its activities with those of the applicable Land Use Authority.

- H. To review and approve applications for agricultural land divisions and to obtain the signature of the Chair of the Planning Commission for plats describing such divisions upon review for accuracy by the Deputy County Surveyor.
- I. To review and approve temporary use permits and certain conditional use permits, as set forth elsewhere in this Development Code.

2.4 SITE PLAN REVIEW COMMITTEE

2.4.1 Establishment of Committee – Members

There is hereby established a Site Plan Review Committee within and for the County. The Committee shall consist of not fewer than seven (7) members, which shall be composed of the following individuals or a designated representative:

- A. The Chairman of the Planning Commission.
- B. The County Zoning Administrator or his Deputy.
- C. The County Building Official or his Deputy.
- D. The Southeastern District Environmental Health Director.
- E. The County Engineer or his Assistant.
- F. The Chairman or his designee of the Price River Water Improvement District.
- G. An at-large member designated by the Board of County Commissioners.

2.4.2 Duties and Powers

The Site Plan Review Committee shall have the following duties and powers:

- A. To review and act on requests for approval of subdivisions without public improvements containing up to 3 lots.
- B. To review and act on requests for advertising sign locations with regard to size, setbacks, location and other factors affecting public safety.
- C. To review and act on requests for approval of caretaker dwellings.
- D. Any other duty and power delegated by the Board of County Commissioners or this Code regarding approval of a site plan.
- E. To review and act on requests for temporary use permits.

2.4.3 Organization - Meetings

Meetings of the Committee shall be held at the call of the chairman. All meetings of the Committee shall be open to the public. The committee shall elect a Chair and adopt rules of conduct for meetings and the hearing of matters before it.

**LEGAL NOTICE
CARBON COUNTY, UTAH
ADOPTION OF ORDINANCE 492**

In a regular meeting of the Board of Carbon County Commissioners, the following Ordinance was adopted on February 6, 2018. Copies of the complete Ordinance is available for review at the Office of the County Clerk, Carbon County Administration Building, 751 E. 100 N., Price, Utah.

ORDINANCE 492

**An Ordinance Adopting Changes to Section Two of the Carbon County
Development Code**

/s/ Seth Oveson, Carbon County Clerk/Auditor

Published in the Sun Advocate June 5, 2018



Lori Perez <lori.perez@carbon.utah.gov>

Re: Ordinance 492

1 message

Legals <legals@sunad.com>

Fri, Jun 1, 2018 at 4:58 PM

To: Lori Perez <lori.perez@carbon.utah.gov>

Received, notice will appear on June 5 in the Sun Advocate as requested. As per state law, notice will also publish on the Utah legals website.

Kelly Wilkinson
Production Manager
Legals Advertising Manager
Classifieds Display Advertising
Sun Advocate/Emery County Progress
435-637-0732 x130

From: Lori Perez <lori.perez@carbon.utah.gov>**Sent:** Friday, June 1, 2018 11:29 AM**To:** Legals**Cc:** Doris Johnston; Seth Oveson**Subject:** Ordinance 492

Kelly,
Please find attach Ordinance 492. Please publish in the June 5, 2018 paper and bill accordingly.
Thanks
Lori

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Lori Perez

Deputy Clerk
Carbon County
Phone: 435-636-3228
Email: lori.perez@carbon.utah.gov

